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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/040,798	03/18/1998	VIKTOR KELLER	P5550	2256
24492	7590	06/03/2002	EXAMINER	
MICHELLE BUGBEE, ASSOCIATE PATENT COUNSEL SPALDING SPORTS WORLDWIDE INC 425 MEADOW STREET PO BOX 901 CHICOPEE, MA 01021-0901			WONG, STEVEN B	
		ART UNIT	PAPER NUMBER	
		3711		
DATE MAILED: 06/03/2002				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. 09/040,798	Applicant(s) Keller et al.
Examiner Steven Wong	Art Unit 3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on \_\_\_\_\_.

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4)  Claim(s) 1-44 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-44 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15)  Notice of References Cited (PTO-892)      18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_      20)  Other: \_\_\_\_\_

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1. In view of the decision by the Board of Patent Appeals remanding the case to the examiner filed on April 24, 2002, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth below.

*Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Newcomb (4,695,055). Newcomb discloses a golf ball formed from reaction injection molding (column 1, lines 36-40). The ball structure includes a homogeneous translucent plastic and a light stick inserted therein to make the golf ball multiple pieces. Note column 1, lines 55-57 which teach a polyurethane material for forming the ball.

*Claim Rejections - 35 USC § 103*

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melvin et al. (562) or Cavallaro et al. (923), each in view of Newcomb (4,695,055)). The latter reference

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renders it obvious to mold the polyurethane layers of the primary reference golf balls by a reaction injection molding process, since such is an obvious expedient for providing the desired resiliency in a golf ball, as illustrated by the secondary reference. Any other possible distinctions over said thus modified golf balls are deemed conventional molding techniques that would necessarily be used in such molding process.

Regarding instant claims 1-13, the particular details for the recited method have been determined to be obvious lacking a showing of their criticality by a new and unexpected result. See *In re Aller et al.* 105 USPQ 233. The appellant has noted that the references lack the particular flex modulus and reaction time of the instant claims, however, he has failed to provide any test results or arguments in affidavit form which would disprove that these numbers are merely workable ranges obtained by routine experimentation. Thus, it would have been obvious to one of ordinary skill in the art to form the golf ball of Melvin et al. or Cavallaro et al. utilizing the reaction injection molding method detailed by Newcomb and according to the instantly claimed numbers as the appellant has not shown that these particular numbers solve any stated purpose and it appears that the combination of Melvin et al. or Cavallaro et al. each in view of Newcomb would accomplish similar purposes.

Regarding instant claims 14-37, as set forth above, the combination of Melvin et al. or Cavallaro et al. each in view of Newcomb would provide a golf ball comprising a reaction injection molded material comprising polyurethane/polyurea.

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Regarding claims 38-41, as set forth above, the combination of Melvin et al. or Cavallaro et al. each in view of Newcomb would provide a golf ball comprising a reaction injection molded material comprising polyurethane/polyurea. Further, the step defining recycling at least 20% of the polyurethane/polyurea has been determined to be obvious lacking a showing of the criticality for the recited amount.

Regarding claims 42-44, as set forth above, the combination of Melvin et al. or Cavallaro et al. each in view of Newcomb would provide a golf ball comprising a reaction injection molded material comprising polyurethane/polyurea. Also, as the appellant has failed to provide any test results or arguments in affidavit form which would disprove that these numbers are merely workable ranges obtained by routine experimentation, it would have been obvious to one of ordinary skill in the art to form the golf ball of Melvin et al. or Cavallaro et al. utilizing the reaction injection molding method detailed by Newcomb and according to the instantly claimed numbers.

### *Conclusion*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is (703) 308-3135.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1148.

Official responses, subject to the provisions of 37 C.F.R. 1.6(d), can be faxed to (703) 305-3579.

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Unofficial faxes which are meant for discussion purposes only should be sent to (703) 308-7768. It is strongly suggested that the examiner be contacted directly before sending any unofficial fax.

~~Steven Wong~~  
Primary Examiner  
Art Unit 3711

SBW  
May 29, 2002



E. ROLLINS-CROSS  
GROUP DIRECTOR  
TECHNOLOGY CENTER 3700